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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/598,075

06/11/2008

Theodore D. Ciolkosz

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EXAMINER

FRANK, RODNEY T

ART UNIT

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/598,075	<b>Applicant(s)</b> CIOLKOSZ ET AL.	
	<b>Examiner</b> RODNEY T. FRANK	<b>Art Unit</b> 2856	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 December 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-15 and 26-30 is/are rejected.
- 7) ☒ Claim(s) 8, 16-25 and 31-36 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 June 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08/17/2006</u>  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Election/Restrictions***

1. Claim 37, withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected method, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 06 December 2010.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Markelov (U.S. patent Number 5,792,423). Markelov discloses a headspace autosampling apparatus (92) for generating and delivering gaseous samples to a gas chromatograph or other instrument includes a plurality of vials (98) in a carousel (150). The vials are delivered one at a time from the carousel through a vial delivery mechanism (160) to a heated zone (146) wherein the substances (94, 96) to be analyzed reach equilibrium with the headspace (100, 102) above the samples in the vials, preferably using the full evaporation technique (FET). The vials are generally cylindrical and extend horizontally to facilitate attainment of equilibrium rapidly upon heating. The vials are also preferably rotated about their longitudinal axis prior to sampling so as to achieve a film effect on the interior walls of the vials which further aids in attainment of equilibrium. The apparatus is operative to first pressurize the headspace in the vial with an inert gas, and then to place said headspace in fluid communication with the inlet of a gas

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chromatograph wherein analytes in the headspace volume are analyzed to determine the composition thereof (Please see the abstract).

4. With respect to claim 1, Markelov discloses and illustrates a device for monitoring pressure in a fluid system comprising a pressure monitor (pressure sensor 126 or pressure gauge 134 from figure 3) for placement in communication with a fluid in said fluid system, said pressure monitor generating a signal representative of a measured pressure ; and a control means for receiving said signal representative of said measured pressure and comparing said measured pressure to a reference (see column 13, lines 5 through 28).

With respect to claim 2, the device wherein said pressure monitor and said control means are placed in communication with a fluid system is illustrated in figure 3.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5-7, 9-14, and 26-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Markelov.

With respect to claim 5, the device wherein said fluid system comprises at least one fluid path section (116) having a first end and a second end; at least one fluid connection means having a plurality of ports (6-port valve 112) for interconnection and responsive to a signal to assume a first position wherein fluid flows between at least two of said ports and responsive to a signal to assume a second position in which fluid does not flow between any of said plurality of

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ports (as illustrated, the port would communicate with at least 2 ports (ports 128, 110, and 140). However, as the valve rotates, it would be in another position in which no ports are connected until the port is realigned into a third position in which the ports are again aligned to allow flow of fluid.), at least one port (128) connected to said first end for forming a fluid system configuration; and a controllable pressure source (118) connected to said second end and responsive to a pressure command signal to create a source pressure on fluid in said fluid system. While the reference does not explicitly disclose the signals from the controller to be a connect command or disconnect command signal, one of ordinary skill in the art would recognize that such signals that cause either flow or a stop of flow are used to rotate the valve and would thus serve the same/similar purpose/function even though not given the same exact name.

With respect to claim 6, the device wherein said at least one fluid connection means has at least one first port and a second port, said at least one first port connected to a first fluid path section and said second port connected to a second fluid path section, as shown in figure 3.

With respect to claim 7, the device wherein said control means is a source of said pressure command signal, is disclosed and illustrated in figure 3 as the controller issues said command signal.

With respect to claims 8 and 11, while there is not specific disclosure of a connect or disconnect command signal, the controller of the device is the source for all command signals and thus would issue all signals for controlling and commanding the device, including operation of flow and thus connect or disconnect signals are considered inherently issued from the controller.

With respect to claim 10, the device wherein said pressure monitor is disposed in one of said at least one fluid path sections, is illustrated in figure 3.

With respect to claim 11, the controller of the device is the source for all command signals and thus would issue all signals for controlling and commanding the device, including operation of flow and thus connect or disconnect signals are considered inherently issued from the controller. The multi port valve serves as to connect various sections of the fluid path, one to the other, thus creating a first close fluid system.

With respect to claim 12, the device indicating a leak is present based upon the comparison of pressures is disclosed in column 10, line 27-36.

With respect to claim 13, a multiport valve is disclosed in figure 3, as item 112.

With respect to claim 14, the claim describes a flow path of the system. This flow path of the system is shown/disclosed in figure 3, and thus the claim limitation describing such a system are deemed to be disclosed in the reference. The multi port valve serves as to connect various sections of the fluid path, one to the other. Column 13, lines 5 through 27 disclose the comparison of a pressure signal to a pressure previously obtained.

7. With respect to claim 26, since the claim is disclosing a method of operation of an apparatus, said apparatus disclosed in respect to claim 1, then the method of operating the device must be disclosed in order for one of ordinary skill in the art to use said device. Therefore, as disclosed in claim 1, a method comprising providing a device comprising a pressure monitor (pressure sensor 126 or pressure gauge 134 from figure 3) for placement in communication with a fluid in said fluid system, said pressure monitor generating a signal representative of a measured pressure; and a control means for receiving said signal representative of said measured pressure and comparing said measured pressure to a reference (see column 13, lines 5 through 28). Placing a pressure monitor in fluid communication with at least one fluid section (see any of pressure monitors 122, 134, or 126). While not explicitly disclosed as generating a pressure command to generate pressure in the

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fluid path, one of ordinary skill in the art would understand that the pressure regulator(1200 would work in conjunction with the pressure source (18) to generate pressure in the system. Therefore, the source and regulator would require command and monitoring in order to determine when the pressure is required as well as to "maintain" pressure at a regulated amount. The device identifying errors/faults is disclosed in column 10, lines 26 through 35 as a leak would be an error in the fluid system.

With respect to claim 27, while there is not specific disclosure of a connect or disconnect command signal, the controller of the device is the source for all command signals and thus would issue all signals for controlling and commanding the device, including operation of flow and thus connect or disconnect signals are considered inherently issued from the controller.

With respect to claim 28, a multiport valve is disclosed in figure 3, as item 112.

With respect to claim 29, the claim describes a flow path of the system. This flow path of the system is shown/disclosed in figure 3, and thus the claim limitation describing such a system are deemed to be disclosed in the reference. The multi port valve serves as to connect various sections of the fluid path, one to the other. Column 13, lines 5 through 27 disclose the comparison of a pressure signal to a pressure previously obtained.

With respect to claim 30, the device indicating a leak is present based upon the comparison of pressures is disclosed in column10, line 27-36.

8. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tatsumi (Japanese Patent No. HEI 10 [1998] -132796, cited by the applicant).

9. With respect to claim 1, Tatsumi discloses in paragraph 0002, and illustrates in figure 1 and 2, a device for monitoring pressure in a fluid system comprising a pressure monitor (pressure sensor 6) for, said pressure monitor generating a signal representative of a measured

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pressure; and a control means for receiving said signal representative of said measured pressure and comparing said measured pressure to a reference (pressure monitoring part 12). While the reference does show the pressure sensor to be located either a part of or attached to the pump, the measurement of the pressure sensor is still in communication with the fluid system as the pump is in communication with the fluid system and any measurement obtained from the pump would be considered a direct representation of the fluid pumped through said system.

With respect to claim 2, the device wherein said pressure monitor (6) and said control means (12) are placed in communication with a fluid system is illustrated in figures 1 and 2.

With respect to claims 3 and 4, paragraph 0002 discloses that the device is used with a liquid chromatograph with an auto injector.

#### ***Allowable Subject Matter***

10. Claims 8, 16-22, 23-25, and 31-36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The examiner has cited references deemed relevant to the general state of the art of the present invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RODNEY T. FRANK whose telephone number is (571)272-2193. The examiner can normally be reached on M-F 9-5:30 p.m. EST.



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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Hezron Williams/  
Supervisory Patent Examiner, Art Unit  
2856

/R. T. F./  
Examiner, Art Unit 2856  
February 1, 2011